

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DONALD REECE,

Plaintiff,

v.

RICHARD SHEPHERD,

Defendant.

Case No. 3:14-cv-00192-MMD-VPC

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (dkt. no. 48) ("R&R") relating to defendant's motion for summary judgment. Plaintiff had until August 24, 2015, to object to the R&R. No objection has been filed. Instead, plaintiff filed an appeal to the Ninth Circuit on August 18, 2015. On September 16, 2015, the Court of Appeals issued its order dismissing the appeal for lack of jurisdiction because the order challenged in the appeal is not final or appealable.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a

1 magistrate judge's report and recommendation where no objections have been filed. See  
2 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard  
3 of review employed by the district court when reviewing a report and recommendation to  
4 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
5 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
6 view that district courts are not required to review "any issue that is not the subject of an  
7 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
8 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.  
9 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
10 which no objection was filed).

11 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
12 determine whether to adopt Magistrate Judge Cooke's R&R. The Magistrate Judge  
13 recommended that defendant's motion for summary judgment (dkt. no. 36) be granted.  
14 Upon reviewing the R&R and underlying briefs, this Court finds good cause to adopt the  
15 Magistrate Judge's R&R in full.


16 It is therefore ordered, adjudged and decreed that the Report and  
17 Recommendation of Magistrate Judge Valerie P. Cooke (dkt. no. 48) is accepted and  
18 adopted in its entirety.

19 It is ordered Defendant's Motion for Summary Judgment (dkt. no. 36) is granted.

20 It is further ordered that Plaintiff's motion requesting document status (dkt. no. 54)  
21 is denied as moot.

22 The Clerk is directed to enter judgment in Defendant's favor and close this case.

23 DATED THIS 5<sup>th</sup> day of October 2015.

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26 MIRANDA M. DU  
27 UNITED STATES DISTRICT JUDGE  
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